

AMENDMENTS TO THE DRAWINGS

Please replace original drawing sheets 1-10 with the attached replacement drawing sheets 1-10.

"Prior Art" labels are added to Figures 1-5, gray-scale shading in the various figures is changed to black and white patterns, and the labels to Figure 8 clarified.

REMARKS

This paper is a response to the non-final Office Action of April 28, 2009. Prior to entry of this paper, claims 1-21 were pending in this application. Claims 1-2, 6, 8, 11, and 13 are now amended; claims 22-41 are newly added; and claims 3-5, 7, 9-10, 12, and 14-21 are canceled. In addition, ten replacement drawing sheets are submitted. The cancellation and amendments herein are made without prejudice to applicants right to pursue claims in unamended or other form in this or continuing applications. Upon entry of this paper, claims 1-2, 6, 8, 11, 13, and 22-41 will be pending. New claims 22-41 are supported by applicants' disclosure, e.g., at least by paragraphs [0015], [0025]-[0029], [0031]-[0033], [0035]-[0036], and [0052]-[0053] of applicants' specification, as published. No new matter is added.

In the Office Action, pending claims 1-2, 5-8, 10-15, and 17-21 were rejected and 3-4, 9, and 16, were objected to. More specifically, the status of the application in light of this Office Action is as follows:

- (A) Claims 3-4, 9, and 16 were indicated as directed to allowable subject matter but objected to as depending from rejected base claims.
- (B) Figures 1-5 were objected as not being labeled as –prior art–.
- (C) Claim 21 was rejected under 35 U.S.C. § 101 as allegedly directed to non-statutory subject matter.
- (D) Claims 1-2, 5, 11, 13-15, 17-18, and 20-21 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over a combination of U.S. Patent No. 6,175,550 to van Nee ("van Nee") and U.S. Patent No. 7,372,909 to Miyoshi ("Miyoshi") and claims 6-8, 10, 12, and 19 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over a

combination of van Nee, Miyoshi, and U.S. Patent Application No. 2002/0142777 to McGovern et al. ("McGovern").

Applicants respectfully disagree with at least the 35 U.S.C. § 103(a) rejections for at least the reasons discussed below.

As an introductory matter, the undersigned attorney and his colleague, Christopher Daley-Watson, appreciate the time Examiners Sekul and Mattis provided during the Examiner Interview of Sept. 28, 2009. During the interview, the parties discussed applicants' technology, the applied references, and the applicants' proposed claim amendments. Specifically, the parties discussed the failure of the applied references, in any reasoned combination, to disclose or suggest the features: "wherein a core-band, including a plurality of subcarrier groups, substantially centered at an operating center frequency of the different communication schemes, is utilized for utilized by the base station as a broadcast channel carrying radio control and operation signaling, where the core-band is substantially not wider than a smallest possible operating channel bandwidth of the system." Examiner Sekul indicated that applicants' proposed amendment appeared to overcome the 35 U.S.C. § 103 rejections, but stated that she would further consider the applied references upon receiving applicants' written response.

In addition, Examiner Mattis mentioned that the word "substantially" in applicants' various claims may be indefinite under 35 U.S.C. § 112, second paragraph. None of applicants' claims are currently rejected under § 112, second paragraph. With respect to this issue, applicants respectfully submit that the use of "substantially" in applicants' claims are definite under § 112, second paragraph as they define the subject matter with "a reasonable degree of particularity and distinctness." (MPEP § 2173.02.) Applicants also note that "[s]ome latitude in the manner of expression and the aptness of terms should be permitted even though the claim language is not as precise as the examiner might desire. (MPEP § 2173.02.)

Applicants also submit that applicants' use of "substantially" is definite under § 112, second paragraph due at least to limitations of the English language as well as real-world technological limitations. For instance, applicants' phrase "a core band ... substantially centered at an operating center frequency[.]" and similar, balance clarity with the fact that real-world systems have process and operational tolerances whereby a core-band may not be *exactly* centered at an operating center frequency despite efforts to center the core band at the operating center frequency. Accordingly, one of ordinary skill in the relevant art would understand applicants' use of "substantially" in the above claims. Further, in at least two cases, the Federal Circuit determined "substantially" to be definite. (See, e.g., *Playtex Products Inc. v. Procter & Gamble Co.*, 73 USPQ.2d 2010 and *Dana Corp. v. American Axle & Manufacturing Inc.*, 61 USPQ.2d 1609.)

If Examiners Sekul or Mattis believes that additional discussions would be beneficial, they are encouraged to contact the undersigned at (206) 359-8000.

A. Allowable Subject Matter

Applicants appreciate the Examiner's recognition of allowable subject matter with respect to original claims 3-4, 9, and 16. However, claims 3-4, 9, and 16 are canceled and applicants respectfully submit that each of the now pending claims is allowable for at least the reasons discussed below.

B. Response to Objections to the Drawings

In the Office Action, Figures 1-5 were objected to as not being labeled as –prior art–. Ten replacement sheets are provided by which "Prior Art" labels are added to Figures 1-5, gray-scale shading in the various figures is changed to black and white patterns, and the labeling of Figure 8 is clarified. Although "Prior Art" labels are added to Figures 1-5, applicants do not concede that the text corresponding to figures 1-5 are prior art. Rather, applicants respectfully submit that at least some aspects of the text corresponding to Figures 1-5 are not prior art.

C. Response to Rejection under 35 U.S.C. § 101

In the Office Action, claim 21 was rejected under 35 U.S.C. § 101. Claim 21 has been deleted and thus this rejection is now moot.

D. Response to Rejections under 35 U.S.C. § 103

Claims 1-2, 5-8, 10-15, and 17-21 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over combinations of van Nee, Miyoshi, and McGovern.

Applicants respectfully submit that independent claim 1, as amended, is allowable over the applied references at least because the applied references fail to disclose or suggest "wherein a core-band, including a plurality of subcarrier groups, substantially centered at an operating center frequency of the different communication schemes, is utilized by the base station as a broadcast channel carrying radio control and operation signaling, where the core-band is substantially not wider than a smallest possible operating channel bandwidth of the system[.]" as claim 1 now recites.

Applicants respectfully submit that independent claim 6, as amended, is allowable over the applied references at least because the applied references fail to disclose or suggest "utilizing a core-band, substantially centered at an operating center frequency to carry synchronization information, wherein the core-band is narrower than or equal to a smallest possible operating channel bandwidth of the network" in combination with "decoding a broadcast channel carrying radio control and operation signalling provided by a base station to the mobile station via the core-band[.]" as claim 6 now recites.

Applicants respectfully submit that independent claim 11, as amended, is allowable over the applied references at least because the applied references fail to disclose or suggest "a facility for decoding a broadcast channel including radio control and operation signalling associated with the area in a core-band including a plurality of

groups, wherein the core-band is not wider than a smallest possible operating channel bandwidth of the network[,]" as claim 11 now recites.

Dependent claims 2, 8, and 13 respectively depend from claims 1, 6, and 11 and are respectfully submitted to be allowable for at least that reason.

In addition, the 35 U.S.C. § 103 rejections of claims 5, 7, 10, 12, 14-15, and 17-21 are moot as these claims have been cancelled.

New Claims 22-41

Claims 22-26 and 32-36 are respectfully submitted to be allowable over the applied references for at least reasons substantially similar to those discussed above with respect to amended claims 1-2, 6, 8, 11, and 13.

With respect to independent claim 27, applicants note that none of the applied references disclose, in combination with the other recited features, "circuitry configured to receive synchronization information from a base station in an orthogonal frequency division multiple access (OFDMA) core-band, wherein the core-band is substantially centered at an operating center frequency and the core-band includes a first plurality of subcarrier groups where each subcarrier group includes a plurality of subcarriers" as recited by claim 27.

With respect to independent claim 37, applicants note that none of the applied references disclose, in combination with the other recited features, "receiving synchronization information by a cellular mobile station from a base station in an orthogonal frequency division multiple access (OFDMA) core-band, wherein the core-band is substantially centered at an operating center frequency and the core-band includes a first plurality of subcarrier groups where each subcarrier group includes a plurality of subcarriers" as recited by claim 37.

Claims 28-31 depend from claim 27 and claims 38-41 depend from claims 37. Applicants respectfully submit that claims 27-31 and 37-41 are allowable over the applied references for at least the above discussed reasons.

Conclusion

In view of the above amendment, applicants believe the pending application is in condition for allowance. Applicants accordingly request reconsideration of the application and a mailing of a Notice of Allowance. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to contact Davin Chin at (206) 359-8000.

Please charge any deficiencies or credit any overpayment to our Deposit Account No. 50-0665, under Order No. 320529496US1 from which the undersigned is authorized to draw.

Dated: September 28, 2009

Respectfully submitted,

By 

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Appendix